

**STATE OF MICHIGAN**

**BEFORE THE MICHIGAN JUDICIAL TENURE COMMISSION**

**COMPLAINT AGAINST:**

**Referee David G. Myers**

Sanilac County Friend of the Court  
60 W Sanilac Road  
PO Box 187  
Sandusky, MI 48471

---

**Docket No.**

**Formal Complaint No. 86**

**COMPLAINT**

The Michigan Judicial Tenure Commission (“Commission”) files this complaint against Referee David G. Myers, Sanilac County, Michigan, Friend of the Court. This action is taken pursuant to the authority of the Commission under Article 6, Section 30 of the Michigan Constitution of 1963, as amended and MCR 9.200 *et seq.* The filing of this Complaint has been authorized and directed by resolution of the Commission.

1. Respondent at all relevant times was a referee serving in the Sanilac County, Michigan, Friend of the Court.

2. As a referee, he is subject to all the duties and responsibilities imposed on him by the Michigan Supreme Court, and is subject to the standards for discipline set forth in MCR 9.104 and MCR 9.205.

3. Between 6:30 p.m. on September 22, 2009, and approximately 12:30 a.m. on September 23, 2009, Respondent consumed two 12-ounce beers at home, then shared three pitchers of beer with one other person, consumed two additional 12-ounce beers, and drank two shots of Jim Beam whiskey at Brentwood Lanes Bowling Alley in Caro, Michigan.

4. At approximately 12:45 a.m. on September 23, 2009, Respondent left Brentwood Lanes driving his automobile, to go to his home in Caro, Michigan.

5. While he was proceeding west on State Street and approaching West Bush Street in Caro, Respondent travelled on the wrong side of the road for a period of time.

6. After he drove past West Bush Street, Respondent pulled to the curb, stopped his car, and then backed up toward the intersection.

7. A Caro police officer stopped Respondent at approximately 12:50 a.m.

8. During the police stop, the police officer asked for Respondent's operator's license, registration, and proof of insurance, but he only produced an operator's license.

9. A strong odor of alcohol emanated from Respondent while the officer questioned him.

10. The officer then conducted several field sobriety tests on Respondent, including alphabet recital, counting backwards, walking heel-to-toe, and balancing on one leg.

11. The results of the field sobriety tests reflected that Respondent was intoxicated.

12. The officer then administered a preliminary breath test, resulting in a blood alcohol reading of .21%.

13. Based on the field sobriety tests and preliminary breath test, the officer arrested Respondent for operating a vehicle while intoxicated, in violation of MCL 257.625(1).

14. While Respondent was detained, the police officer administered two DataMaster breath tests on him.

15. The tests, conducted at 1:30 a.m. and 1:33 a.m. on September 23, each registered a blood alcohol content of .20 grams alcohol per 210 liters of breath.

16. A misdemeanor complaint was ultimately issued against Respondent in the 71-B District Court, in *People v David G. Myers*, Case No. 2009-1198-SD, charging Respondent with operating a motor vehicle while intoxicated, pursuant to MCL 257.625(1).

17. On January 29, 2010, in relation to that case, Respondent pled guilty to a charge of operating a motor vehicle while intoxicated, pursuant to MCL 257.625(1).

18. On January 29, 2010, Judge John T. Connolly sentenced Respondent to pay costs and fines, attend Alcoholics Anonymous, and serve probation for three months, in relation to the offense.

Respondent's conduct described in the above paragraphs, if true, constitutes:

- a) Misconduct in office, as defined by the Michigan Constitution of 1963, as amended, Article 6, Section 30 and MCR 9.205;
- b) Conduct clearly prejudicial to the administration of justice, as defined by the Michigan Constitution of 1963, as amended, Article 6, Section 30, and MCR 9.205;
- c) Failure to establish, maintain, enforce and personally observe high standards of conduct so that the integrity and independence of the judiciary may be preserved, contrary to the Code of Judicial Conduct, Canon 1;
- d) Irresponsible or improper conduct which erodes public confidence in the judiciary, in violation of the Code of Judicial Conduct, Canon 2A;
- e) Conduct involving impropriety and the appearance of impropriety, in violation of the Code of Judicial Conduct, Canon 2A;
- f) Failure to respect and observe the law and to conduct himself at all times in a manner which would enhance the public's confidence in the integrity and impartiality of the judiciary, contrary to the Code of Judicial Conduct, Canon 2B; and

- g) Conduct which exposes the legal profession or the courts to obloquy, contempt, censure, or reproach, in violation of MCR 9.104(A)(2).

Pursuant to MCR 9.209(B), Respondent is advised that an original verified answer to the foregoing complaint, and nine copies thereof, must be filed with the Commission within 14 days after service upon Respondent of the Complaint. Such answer shall be in a form similar to the answer in a civil action in a circuit court and shall contain a full and fair disclosure of all the facts and circumstances pertaining to Respondent's alleged misconduct. The willful concealment, misrepresentation, or failure to file such answer and disclosure shall be additional grounds for disciplinary action under the complaint.

**JUDICIAL TENURE COMMISSION  
OF THE STATE OF MICHIGAN  
3034 W. Grand Boulevard, Suite 8-450  
Detroit, MI 48202**

By: \_\_\_\_\_ /s/  
Paul J. Fischer (P 35454)  
Examiner

/s/  
\_\_\_\_\_  
Casimir J. Swastek (P 42767)

/s/

---

Glenn J. Page (P31703)  
Associate Examiners

Dated: June 15, 2010